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Phone: (512) 476-1400 Fax: (512) 703-1250

CONLEY, ROSE & TAYON, P.C.

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Intellectual Property Law
Including
Patents, Trademarks, Copyrights
and Unfair Competition

FAX

To: Mr. Laufer

From: Robert Kowert

Fax: 703-305-8266

Phone: 512-703-1271

Phone: 703-306-4160

Pages: 15, including cover page

Re: Rule 47A Petition (09/159,509)

Date: September 9, 2002

Mr. Laufer,

Attached please find the documents submitted in March 2000, in response to the Decision Refusing Status under 37 C.F.R. 1.47(a).

BEST AVAILABLE COPY

THIS FACSIMILE TRANSMITTAL AND THE DOCUMENTS ACCOMPANYING THIS FACSIMILE TRANSMITTAL CONTAIN CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT YOU ARE NOTIFIED THAT THIS COMMUNICATION MAY BE SUBJECT TO THE ATTORNEY-CLIENT OR WORK-PRODUCT PRIVILEGE AND THAT THE DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE (COLLECT) TO ARRANGE FOR RETURN OF THE DOCUMENTS. RECEIPT BY ANYONE OTHER THAN THE INTENDED RECIPIENT IS NOT A WAIVER OF ANY ATTORNEY-CLIENT OR WORK-PRODUCT PRIVILEGE.

Feb 24 00 01:33p

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P. 2

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reissue Application of:

Browning, et al.

Serial No.: 09/159,509

Filed: September 23, 1998

For: **METHOD AND APPARATUS
FOR CREATING A WIREFRAME
AND POLYGON VIRTUAL
WORLD**

Group Art Unit: 2784

Examiner: Unknown

Attorney Docket: 5181-11402

Client Docket: P3051C

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date indicated below:

Dan R. Christen

Name of Registered Representative

Feb 28, 2000

Date

Signature

**REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY BY
INVENTOR(S)**

As a below named Inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am an original, first, joint inventor of the subject matter that is described and claimed in letters patent number 5,559,995, granted on September 24, 1996, and for which invention I solicit a reissue patent on the invention entitled "METHOD AND APPARATUS FOR CREATING A WIREFRAME AND POLYGON VIRTUAL WORLD," the specification of which

☐ is attached hereto.☒ was filed on September 23, 1998, as reissue application number 09/159,509 and is amended in the Preliminary Amendment submitted herewith.☐ I hereby declare that there is no assignee for this application.

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P. 3

**STATEMENT OF INOPERATIVENESS OR INVALIDITY
OF ORIGINAL PATENT UNDER 37 C.F.R. § 1.175**

I believe the original patent to be

☒ partly

☐ wholly

inoperative or invalid by reason of (37 C.F.R. S 1.175(a)(1)):

(check all items that may apply)

☒ a defective specification

☐ a defective drawing

☒ the patentee claiming more or less than the patentee had a right to claim in the patent.

NOTE: At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).

Applicants note that a change or departure from the original specification or claims represents an "error" in the original patent under 35 U.S.C. 251. One such "error" in the original patent relates to the specification. Filed with this declaration is a Preliminary Amendment which corrects a number of "errors" in the specification. In particular, in column 2, line 31, the phrase [the SGI] should be changed to the SGI workstation. In column 3, line 5, the phrase [flat tree] should be changed to flat tree.

Another "error" relates to the patentees claiming more or less than they had a right to claim in the patent. Filed with the reissue application were new claims 10-108, at least some of which have a different scope than the originally issued claims, and that cover inventions that were not completely covered by the original claims. The differences in scope between the new claims and the old claims represent "errors" in the original patent.

For example, old independent claims 1 and 8 represents "errors" because the patentees claimed less than they had a right to claim in the original patent. Old claims 1 and 8 include the following language: "for selecting a first edge of [the] first virtual object and for selecting a second edge of [the] second virtual object." New independent claims 10 and 46 do not contain this language.

Another error in old independent claims 1 and 8 is the language "joined at an intersection of the first and second edges." New independent claims 10 and 46 do not contain this language.

Yet another "error" is corrected by new claims 46-57, which are directed toward a memory medium. There are no memory medium claims recited in the original patent due to the insufficiency of the original claims.

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P - 4

Applicant(s) believe that the errors listed above, and all other errors which are being corrected, up to the time of the filing of this reissue declaration, arose without any deceptive intention on the part of the applicant(s). 37 C.F.R. § 1.175(a)(2).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR (37 C.F.R. 6 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

☐ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

ADDITIONAL PARTS OF DECLARATION

Check proper box(es) for any added pages forming part of this declaration:

☐ Petition by person authorized under 37 C.F.R. § 1.47 for inventor who refuses to sign or cannot be reached.

☐ Corroborating affidavits or declarations of others.

POWER OF ATTORNEY

I hereby revoke any previous Powers of Attorney and appoint the following practitioner(s):

Kenneth Olsen	Reg. No. 26,493
Matthew C. Rainey	Reg. No. 32,291
Timothy J. Crean	Reg. No. 37,116
Philip J. McKay	Reg. No. 38,966
Robert S. Hauser	Reg. No. 37,847
Joseph T. FitzGerald	Reg. No. 33,881
Alexander E. Silverman	Reg. No. 37,940

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P. 5

each of said attorneys being employed by Sun Microsystems, and

Mark L. Berrier	Reg. No. 35,066
Cyrus F. Bharucha	Reg. No. 42,324
Dan R. Christen	Reg. No. 39,943
Timothy S. Corder	Reg. No. 38,414
Kevin L. Daffer	Reg. No. 34,146
Jeffrey C. Hood	Reg. No. 35,198
Louis H. Iselin	Reg. No. 42,684
B. Noël Kivlin	Reg. No. 33,929
Robert C. Kowert	Reg. No. 39,255
Lawrence J. Merkel	Reg. No. 41,191
Eric B. Meyertons	Reg. No. 34,876
Eric A. Stephenson	Reg. No. 38,321
David A. Rose	Reg. No. 26,223

each of said attorneys or agents being members or associates of the firm of Conley, Rose & Tayon, P.C., as attorney or agent for so long as they remain with such company or firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Letters Patent.

Please direct all communications as follows:

Dan R. Christen
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 703-1429

STATEMENT OF POSSIBLE OWNERSHIP INTEREST AND CONSENT

I believe that I may have an ownership interest in this reissue application and the underlying patent. Sun Microsystems has notified me that it believes it owns the entire right and interest in this reissue application and the underlying patent by way of assignment from VPL Newco, Inc. Regardless of how this issue is eventually resolved, I hereby give my consent for the filing of this reissue application.

Feb 24 00 01:34p

P. 6

SIGNATURE(S)

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name: Dan D. Browning
(First) (Initial) (Last)

Inventor's Signature: _____ Date: _____

City and State (or Foreign Country) of Residence: San Francisco, CA Citizenship: U.S.A.

Post Office and Residence Address: 2823 Baker Street 204, San Francisco, CA 94123
(Include number, street name, city, state and zip code)

Inventor's Full Name: Ethan D. Joffe
(First) (Initial) (Last)

Inventor's Signature: Ethan Joffe Date: 2/24/2000

City and State (or Foreign Country) of Residence: Venice, CA Citizenship: U.S.A.

Post Office and Residence Address: 39 Paloma Ave. #5, Venice, CA 90291
(Include number, street name, city, state and zip code)

Inventor's Full Name: Jaron Z. Lanier
(First) (Initial) (Last)

Inventor's Signature: _____ Date: _____

City and State (or Foreign Country) of Residence: Sausalito, CA Citizenship: U.S.A.

Post Office and Residence Address: P.O. Box 2842, Sausalito, CA
(Include number, street name, city, state and zip code)

**STATEMENT OF INOPERATIVENESS OR INVALIDITY
OF ORIGINAL PATENT UNDER 37 C.F.R. § 1.175**

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☒ partly

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inoperative or invalid by reason of (37 C.F.R. S 1.175(a)(1)):

(check all items that may apply)

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☐ a defective drawing

☒ the patentee claiming more or less than the patentee had a right to claim in the patent.

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Applicant(s) believe that the errors listed above, and all other errors which are being corrected, up to the time of the filing of this reissue declaration, arose without any deceptive intention on the part of the applicant(s). 37 C.F.R. § 1.175(a)(2).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).

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(37 C.F.R. 6 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

☐ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

ADDITIONAL PARTS OF DECLARATION

Check proper box(es) for any added pages forming part of this declaration:

☐ Petition by person authorized under 37 C.F.R. § 1.47 for inventor who refuses to sign or cannot be reached.

☐ Corroborating affidavits or declarations of others.

POWER OF ATTORNEY

I hereby revoke any previous Powers of Attorney and appoint the following practitioner(s):

Kenneth Olsen	Reg. No. 26,493
Matthew C. Rainey	Reg. No. 32,291
Timothy J. Crean	Reg. No. 37,116
Philip J. McKay	Reg. No. 38,966
Robert S. Hauser	Reg. No. 37,847
Joseph T. FitzGerald	Reg. No. 33,881
Alexander E. Silverman	Reg. No. 37,940

each of said attorneys being employed by Sun Microsystems, and

I hereby revoke any previous Powers of Attorney and appoint the following practitioner(s):

Mark L. Berrier	Reg. No. 35,066
Cyrus F. Bharucha	Reg. No. 42,324
Dan R. Christen	Reg. No. 39,943
Timothy S. Corder	Reg. No. 38,414
Kevin L. Daffer	Reg. No. 34,146
Jeffrey C. Hood	Reg. No. 35,198
Louis H. Iselin	Reg. No. 42,684
B. Noël Kivlin	Reg. No. 33,929
Robert C. Kowert	Reg. No. 39,255
Lawrence J. Merkel	Reg. No. 41,191
Eric B. Meyertons	Reg. No. 34,876
Eric A. Stephenson	Reg. No. 38,321
David A. Rose	Reg. No. 26,223

each of said attorneys or agents being members or associates of the firm of Conley, Rose & Tayon, P.C., as attorney or agent for so long as they remain with such company or firm, with full power of substitution and revocation, to prosecute the application, to make alterations and amendments therein, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Letters Patent.

Please direct all communications as follows:

Dan R. Christen
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Ph: (512) 703-1429

SIGNATURE(S)

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name: Dan D. Browning
(First) (Initial) (Last)

Inventor's Signature: _____ Date: _____

City and State (or Foreign Country) of Residence: San Francisco, CA Citizenship: U.S.A.

Post Office and Residence Address: 2823 Baker Street 204, San Francisco, CA 94123
(Include number, street name, city, state and zip code)

Inventor's Full Name: Ethan D. Joffe
(First) (Initial) (Last)

Inventor's Signature: _____ Date: _____

City and State (or Foreign Country) of Residence: Venice, CA Citizenship: U.S.A.

Post Office and Residence Address: 39 Paloma Ave. #5, Venice CA 90291
(Include number, street name, city, state and zip code)

Inventor's Full Name: Jaron Z. Lanier
(First) (Initial) (Last)

Inventor's Signature: JZL Date: Dec 2 '99

City and State (or Foreign Country) of Residence: Sausalito, CA Citizenship: U.S.A.

Post Office and Residence Address: P.O. Box 2842, Sausalito, CA
(Include number, street name, city, state and zip code)

CONLEY, ROSE & TAYON, P.C.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**INVENTOR(S):**

Dan D. Browning, Ethan D. Joffe and Jaron Z. Lanier

ASSIGNEE:

Sun Microsystems, Inc.

SERIAL NO.:

09/159,509

FILING DATE:

September 23, 1998

TITLE:Method and Apparatus for Creating a Wireframe and Polygon
Virtual World**ATTORNEY DOCKET:** 5181-11402 / P3051C

The date stamp of the mail room of the U.S. Patent and Trademark Office hereon will acknowledge receipt of the attached 1) Copy of the Decision Refusing Status under 37 CFR 1.47(a); 2) Two executed Declarations in compliance with 37 CFR 1.63, 1.64, and 1.175; 3) Petition for Extension of Time; 4) Check in the amount of \$380.00 to cover fees; and 5) A Return Postcard.

Via First Class Mail
DRC:dmp

Date: February 28, 2000



7

PATENT
(5181-11402/P3051C)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/159,509
Filed: September 23, 1998
Inventor(s):
Browning, et al.

§ Examiner: Unknown
§ Group/Art Unit: 2784
§ Atty. Dkt. No: 5181-11402
§
§
§
§
§
§
§
§
§
§
§

Title: Method and Apparatus for
Creating a Wireframe and
Polygon Virtual World

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, DC 20231, on the date indicated below.

Dan R. Christen

Name of Registered Representative

Dan Christen
Signature

February 28, 2000
Date

PETITION UNDER 37 C.F.R. §1.136
FOR EXTENSION OF TIME

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant respectfully petitions the Commissioner for a two month extension of time under 37 C.F.R. §1.136 within which to respond to the Decision Refusing Status Under 37 CFR 1.47(a) mailed November 29, 1999, such extension allowing the undersigned until February 29, 2000, to respond.

A check is enclosed to cover this extension fee. However, if the check is missing or insufficient, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Conley, Rose & Tayon, P.C. Deposit Account No. 03-2769\5181-11402\DRC. **TWO DUPLICATE COPIES OF THIS FORM ARE ENCLOSED.**

Respectfully submitted,

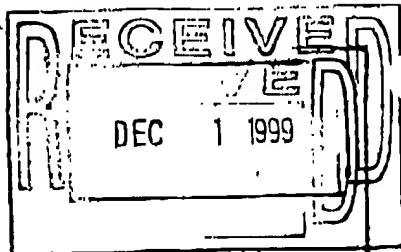
Dan Christen

Dan R. Christen

Reg. No. 39,943

ATTORNEY FOR APPLICANTS

Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767-0398
(512) 476-1400
Date: February 28, 2000



5181-11402
 UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 ASSISTANT SECRETARY AND COMMISSIONER
 OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

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DAN R. CHRISTEN
 CONLEY ROSE & TAYON PC
 PO BOX 398
 AUSTIN, TX 78767-0398

In re Reissue Application of
 Browning, Joffe, and Lanier
 Application No. 09/159,509
 Filed: September 23, 1998
 For: METHOD AND APPARATUS FOR
 CREATING A WIREFRAME AND
 POLYGON VIRTUAL WORLD

:
 :
 : DECISION REFUSING STATUS
 : UNDER 37 CFR 1.47(a)

DOCKETED

BY: _____

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 26, 1999. DATE: 12/1

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The reply to this decision may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63. (If a declaration is filed by the currently non-signing inventor, please make sure that the declaration lists all inventors and does not suggest that the inventor is a sole inventor, such a declaration will neither comply with 37 CFR 1.63 nor evidence that the inventor is willing to join in the filing of this application.)

The above-identified application was filed on September 23, 1998 without an executed oath or declaration.

Accordingly, on November 25, 1998, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on April 26, 1999, the instant petition was filed, together with a declaration of facts stating the last known address of Mr. Browning, declarations signed by joint inventors Lanier and Joffe, and a petition for an extension of time, as well as other papers. The petition provides proof that joint inventor Browning cannot be reached after a

Application No. 09/159,509

Page 2

diligent effort.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), an application filed pursuant to 35 U.S.C. 1.47(a) is required to be made by the available inventors on behalf of themselves and the non-signing inventor. Accordingly, an oath or declaration for the patent application in compliance with 37 CFR 1.63, 1.64 and 1.175 has not been presented because the residence and citizenship of Mr. Browning have not been stated. An oath or declaration in compliance with 37 CFR 1.63, 1.64 and 1.175 signed by Mr. Joffe and Mr. Lanier on behalf of themselves and Mr. Browning is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at [(703) 306-3159].

Karin Tyson

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

*** RX REPORT ***

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